

**DEPARTMENT OF EDUCATION
Montpelier, Vermont**

TEAM: Independent and Federal Programs; Legal Division

ITEM: Will State Board of Education waive Rule 2228.8 (4) (a) and (b) to extend the deadline by which independent schools approved for special education can request a new rate for the ensuing school year, and accordingly, extend the timelines for a request to the commissioner to review the rate set by the Department?

RECOMMENDED ACTION: That State Board of Education waive Rule 2228.8 (4) (a) and (b) to extend the deadline by which independent schools approved for special education can request a new rate for the ensuing school year, and accordingly, extend the timelines for a request to the commissioner to review the rate set by the Department.

STATUTORY AUTHORITY: 16 V.S.A. § 164, and § 166; State Board of Education Rule 1260; 3 V.S.A. § 845

BACKGROUND INFORMATION:

1. On November 20, 2001, the State Board waived Rule 2228.8 (4)(a) and (b), to extend the deadline for independent schools that are approved for special education to request a new rate for the ensuing school year on or before July 1st of each year. This recommended action seeks to reaffirm that action by the State Board, and also specifically extend the timeline for seeking a review by the commissioner of the rate set by the Department.
2. State Board of Education Rule 1260 allows the State Board to waive established regulations when necessary for school districts to carry out locally established objectives. In order to facilitate public school placement of students receiving special education, independent school tuition rates must be set before the start of a school year. By allowing an extension of the deadline for a rate request, independent schools can provide public schools with rates that actually reflect the level of services provided, based on what has occurred during the course of a current school year.
3. State Board of Education Rule 2228.8 (4)(a) and (4)(b) states:
 - (a) To have a new rate approved for the ensuing school year, an independent school shall submit a request for rate approval with supporting documentation to the Department prior to November 15. The commissioner shall notify the independent school of the results of the review on or before January 15.
 - (b) If a request for a new rate approval is not submitted by November 15, the most recent approved rate will be in effect until the following November 15, when the next rate request is due.

4. The Department recommends a timeline with a final date of July 1 for rate approval requests to be submitted. The commissioner shall review and respond to requests for rate increases within 60 days of receipt, as long as the request is received on or before July 1 of each year. If the request is not received on or before July 1, the most recent approved rate will be in effect until the following July 1, when the next rate request is due.

COST IMPLICATIONS: N/A

STAFF AVAILABLE: Mark Oettinger; Greg Glennon; Pat Pallas Gray